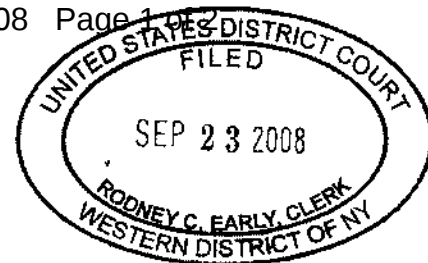


UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA,

Hon. Hugh B. Scott  
08CR000S

08 CR 261 (d)

Report  
&

Recommendation

v.

Richard Dunlap,

Defendant.

By Order of Judge William M. Skretny dated September 22, 2008, the above case was referred to the undersigned, with the consent of the defendant, to take the defendant's plea of guilty and to conduct an allocution pursuant to Rule 11 of the Federal Rules of Criminal Procedure for a Report and Recommendation. The following is my Report and Recommendation as to the defendant's plea of guilty.

On September 23, 2008, the defendant entered a plea of guilty in this case, as set forth in the transcript of the plea proceeding, which is incorporated by reference in this written Report and Recommendation. In accordance with my findings at the close of the plea proceeding, it is my Report and Recommendation that the defendant's plea of guilty accords with the requirements of Rule 11 of the Federal Rules of Criminal Procedure.

It is recommended that your Honor adjudge the defendant guilty of the offense(s) to which the guilty plea was offered.

Pursuant to 28 USC §636(b)(1), it is hereby ordered that this Report & Recommendation be filed with the Clerk of the Court and that the Clerk shall send a copy of the Report & Recommendation to all parties. **ANY OBJECTIONS to this Report & Recommendation**

**must be filed with the Clerk of this Court within ten(10) days after receipt of a copy of this Report & Recommendation in accordance with 28 U.S.C. §636(b)(1), Rule 59(b)(2) of the Federal Rules of Criminal Procedure and Rule 58.2 of the Local Rules of Criminal Procedure for the Western District of New York.**

**FAILURE TO FILE OBJECTIONS TO THIS REPORT & RECOMMENDATION WITHIN THE SPECIFIED TIME, OR TO REQUEST AN EXTENSION OF TIME TO FILE OBJECTIONS, WAIVES THE RIGHT TO APPEAL ANY SUBSEQUENT ORDER BY THE DISTRICT COURT ADOPTING THE RECOMMENDATIONS CONTAINED HEREIN.**

Please also note that the District Court, on *de novo* review, will ordinarily refuse to consider arguments, case law and/or evidentiary material which could have been, but was not, presented to the Magistrate Judge in the first instance. Finally, the parties are reminded that, pursuant to Rule 58.2(a)(3) of the Local Rules of the Western District of New York requires that the "written objections shall specifically identify the portions of the proposed findings and recommendations to which objection is made and the basis for such objection and shall be supported by legal authority." Failure to comply with the provisions of Rule 58.2(a)(3) may result in the District Court's refusal to consider the objection.

So Ordered.

*/s/ Hugh B. Scott*

United States Magistrate Judge  
Western District of New York

Buffalo, New York  
September 23, 2008